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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,259	02/26/2004	Renshi Goto	SOHMEI.PT1010	9460

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EXAMINER

TORRES, ALICIA M

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/789,259

Applicant(s)

GOTO ET AL

Examiner

Alicia M. Torres

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3 and 4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 is/are allowed.
- 6) ☒ Claim(s) 3, 4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over White, III et al. 5,042,238 in view of Hostetler et al. 4,869,054.

3. Regarding claim 3, White discloses a riding mower comprising:

- An engine (12)
- Front (24) and rear (26) wheels
- A pair of hydrostatic transmissions (62, see column 4, lines 29-34 explaining the “pair” and column 6, lines 56-59 explaining the hydrostatic transmission) driven by the engine (12) for rotating the rear wheels (26)
- A mower (not shown) capable of being lifted up and down (via assembly 28)
- A drive (see column 3, lines 11-14) for driving the mower, provided in parallel with the hydrostatic system (at 62)
- The hydrostatic system (at 62) provided front and back in a row.

However, White fails to disclose wherein the hydrostatic transmission is provided with a pair of variable capacity pumps and a pair of hydraulic motors.

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Hostetler discloses a similar riding mower wherein the rear wheel is driven by a hydrostatic transmission (93) provided with a variable capacity pump (91) and hydraulic motor (104). Hostetler also discloses a PTO shaft for driving the mower.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the hydraulic pump and motor of Hostetler on the hydraulic transmissions of White in order to drive the mower.

4. Regarding claim 4, White discloses a riding mower comprising:

- An engine (12)
- Front (24) and rear (26) wheels
- A pair of hydrostatic transmissions (62, see column 4, lines 29-34 explaining the “pair” and column 6, lines 56-59 explaining the hydrostatic transmission) driven by the engine (12) for rotating the rear wheels (26)
- A mower (not shown) capable of being lifted up and down (via assembly 28)
- A drive (see column 3, lines 11-14) for driving the mower, provided in parallel with the hydrostatic system (at 62)
- The hydrostatic system (at 62) provided front and back in a row.

However, White fails to disclose wherein the hydrostatic transmission is provided with a pair of variable capacity pumps and a pair of hydraulic motors;

the PTO provided on side of a mower centerline and the pumps located on the opposite side of the centerline.

Hostetler discloses a similar riding mower wherein the rear wheel is driven by a hydrostatic transmission (93) provided with a variable capacity pump (91) and hydraulic motor (104). Hostetler also discloses a PTO shaft for driving the mower.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the hydraulic pump and motor of Hostetler on the hydraulic transmissions of White in order to drive the mower.

#### ***Response to Arguments***

5. The examiner has not shown the specific placement of the pumps and the arrangement with the PTO because it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the pumps in a row and on a side opposite the PTO relative to a centerline of the mower since it has been held that rearranging parts of an invention involves only routine skill in the art. The applicant has failed to provide any new or unexpected results from such an arrangement that would distinguish the invention from the prior art.

#### ***Allowable Subject Matter***

6. Claim 1 is allowed.

#### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

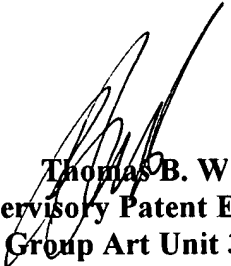
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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 571-272-6997. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 571-272-6998.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 571-273-8300.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

AMT  
September 8, 2005